

**12. 2006SP-161U-09**

The Crown SP

Map 093-064, Parcels 063, 064, 065, 066, 067, 068, 069, 070, 071, 072, 073, 074, and 075

Subarea 9 (1997)

Council District 6 - Mike Jameson

A request to change from CF to SP zoning properties located at 141, 147, 149, 151, 161, 163 and 165 2nd Avenue South and 140, 150 3rd Avenue South, and 3rd Avenue South (unnumbered) at the northeast corner of 3rd Avenue and Demonbreun Street (1.59 acres), to permit the development of 28-Story office/retail building, requested by Everton Oglesby Architects and Jimmy Barry, applicant, for Carrell Family LLC, owner.

**STAFF RECOMMENDATION: Approve with conditions**

**APPLICANT REQUEST - Preliminary SP**

A request to change from Core Frame (CF) to Specific Plan (SP) zoning property located 141, 147, 149, 151, 161, 163 and 165 2<sup>nd</sup> Avenue South and 140, 150 3<sup>rd</sup> Avenue South, and 3<sup>rd</sup> Avenue South (unnumbered), (1.59 acres) to permit a 28 story office building with 574,484 square feet of floor area, including 554,941 square feet of office space, 15,258 square feet of retail, and 4,285 square feet of restaurant uses.

**Existing Zoning**

CF district - Core Frame is intended to implement the central business district's land use policies for support services. The district is designed primarily for a diverse variety of business service functions along with retail trade and consumer service establishments and large parking structures that require locations in proximity to the central business district.

**Proposed Zoning**

SP district - Specific Plan is a zoning district category that provides for additional flexibility of design, including the relationship of buildings to streets, to provide the ability to implement the specific details of the General Plan.

- The SP District is a base zoning district, not an overlay. It will be labeled on zoning maps as "SP."
- The SP District is not subject to the traditional zoning districts' development standards. Instead, urban design elements are determined for the specific development and are written into the zone change ordinance, which becomes law.
- Use of SP **does not** relieve the applicant of responsibility for the regulations/guidelines in historic or redevelopment districts. The more stringent regulations or guidelines control.
- Use of SP **does not** relieve the applicant of responsibility for subdivision regulation and/or stormwater regulations.
- The SP **must follow the goals and objectives of the General Plan.**

**PLAN DETAILS**

Principal Use - The principal use within this building is "general office," while the supporting uses are retail and restaurant uses. The plan proposes a 28 story building with height of 380 feet and a 7.95 Floor Area Ratio (FAR). The FAR is the total floor area of all structures on a lot, divided by the total lot area. The plan proposes three floors of underground parking and five stories of above ground parking, with retail, restaurant and parking at the ground floor and lobby level (because of a grade change, the lobby is the street level along 3<sup>rd</sup> Avenue South and the ground floor level retail is along 2<sup>nd</sup> Avenue South).

The plan includes a 4,285 square foot restaurant use on the ground floor facing the Shelby Street Pedestrian Bridge. The plan provides 15,258 square feet of retail tenant space along 2<sup>nd</sup> and 3<sup>rd</sup> Avenues South and along Demonbreun on the ground floor, and the plan shows "potential" retail space along 2<sup>nd</sup> Avenue South

and Demonbreun on the second level. Staff recommends that the word “potential” be removed from the plan prior to third reading at Metro Council, or a condition should be included in the Council bill that requires the second level retail use to be mandatory to ensure that the building has active uses facing the pedestrian heavy thoroughfares of 2<sup>nd</sup> Avenue South and Demonbreun.

<b>Proposed Uses</b>	<b>Proposed Floor Area</b>
General Office	554,941 sq. ft.
General Retail	15,258 sq. ft.
Restaurant	4,285 sq. ft.
Total	574,484 sq. ft.

**Design Objectives** - Although this plan was originally submitted by the applicant to be considered under the previous Subarea Plan policy (Central Business District in the Subarea 9 Update: 1997), it was deferred to allow staff to finalize the updated Community Plan for Downtown.

The Downtown Community Plan Update: 2006 recognizes Demonbreun Street’s role as a primary pedestrian corridor within the SoBro neighborhood – essentially, SoBro’s “Main Street.” Demonbreun serves as the connection between Music Row, the Country Music Hall of Fame and Schermerhorn Symphony Center, and the Cumberland River with the proposed Sounds ballpark and related mixed-use development. The applicant has worked diligently to redesign the plan to move the parking garage access points from Demonbreun to 3<sup>rd</sup> Avenue South to be consistent with the intent of the Downtown Plan. The applicant has also worked extensively with staff to redesign the plan to add more retail space along the first floor(s) on Demonbreun to help create a more active streetscape necessary for a street that will have the level of pedestrian activity envisioned for Demonbreun.

#### **Leadership in Energy and Environmental**

**Design (LEED)** - The plan includes a green roof and proposes to be at least a “Certified” LEED building (the basic level of achievement of LEED) and could possibly fall within the “Silver” certification category. LEED is a new building design element that is likely to be more common in proposed structures in the future. The following is a brief description of LEED from their Web site:.

#### **What is LEED?**

The Leadership in Energy and Environmental Design (LEED) Green Building Rating System is the nationally accepted benchmark for the design, construction, and operation of high performance green buildings. LEED gives building owners and operators the tools they need to have an immediate and measurable impact on their buildings’ performance. LEED promotes a whole-building approach to sustainability by recognizing performance in five key areas of human and environmental health: sustainable site development, water savings, energy efficiency, materials selection, and indoor environmental quality. LEED provides a roadmap for measuring and documenting success for every building type and phase of a building lifecycle.

#### **What is LEED Certification?**

The first step to LEED certification is to register the project. To earn certification, a building project must meet certain prerequisites and performance benchmarks ("credits") within each category. Projects are awarded Certified, Silver, Gold, or Platinum certification depending on the number of credits they achieve. This comprehensive approach is the reason LEED-certified buildings have reduced operating costs, healthier and more productive occupants, and conserve our natural resources.

The proposed Crown building earns LEED points for reducing the heat island effect, green roof, access to public transportation, site selection, water efficient landscaping, water use reduction, optimized energy performance, recycled content, outdoor air delivery monitoring, construction indoor air quality plan, and thermal comfort design, among many other factors it proposes to comply

#### **DOWNTOWN COMMUNITY PLAN POLICY**

##### **SoBro Neighborhood, Mixed Use Subdistrict**

**Mixed Use (MU) Policy** - Given the complexity and diversity of neighborhoods and development within

Downtown, the Downtown Community Plan Update: 2006 proposes several guiding principles to direct future growth and development decisions. The Downtown Plan considers Downtown as seventeen neighborhoods. Within each neighborhood, there are several subdistricts, each with their own goals and objectives to implement the guiding principles.

The proposed Crown building is within the SoBro neighborhood, in its Mixed Use subdistrict. The MU policy for the subdistrict is intended to encourage an integrated, diverse blend of compatible land uses ensuring unique opportunities for living, working, and shopping. Predominant uses in MU include residential, commercial, recreational, cultural, and community facilities. Commercial uses appropriate to MU areas include offices and community, neighborhood, and convenience scale activities. Residential densities are comparable to medium, medium-high, or high density.

The MU policy calls for development proposals in the policy area to include an Urban Design or Planned Unit Development overlay district or other specific site plan. This ensures appropriate design and that the type of development conforms to the intent of the policy.

### **Overview and General Intent**

The SoBro Neighborhood is intended to be a high-intensity, mixed use neighborhood emphasizing cultural, entertainment, and residential components while accommodating office uses. Development in SoBro should create a comfortable and lively pedestrian environment for residents of, and visitors to, SoBro. Development in SoBro should create a distinctive, eclectic identity that allows tall buildings with some sheer walls along certain streets, as well as some “stepped back” buildings to create a variety of view sheds and allow for light and air circulation throughout the neighborhood. Growth in SoBro offers an opportunity for Nashville to join other American cities in creating environmentally sustainable and energy efficient design of structures through the recognized LEED certification program.

The SoBro Neighborhood encompasses the proposed Sounds baseball stadium, which will be the neighborhood focus for associated mixed use development. The current built pattern of First and Second Avenues is an extension of the historically and culturally significant Second and Broadway Neighborhood to the north. South of Broadway, First and Second Avenues include a collection of low-scaled notable historic brick buildings that add to the fabric of the neighborhood. These should be preserved and their massing should be utilized as a contextual basis for new and adaptive reuse development in the area.

By recognizing and maintaining the link between the portion of Second Avenue north of Broadway to the portion of Second Avenue to the south of Broadway, development can create an extension of a key tourist and local entertainment corridor. Residents and visitors will be able to easily and comfortably walk between upper Second Avenue into the Sounds neighborhood to take advantage of the diverse activity. A pedestrian scale, mixed-use character is key to maintaining the extension of Second Avenue south from Broadway.

The Cumberland River Greenway is planned to continue through the eastern boundary of the SoBro neighborhood. Connections to the greenway will be important to provide residents and visitors with access to open space.

The Shelby Street Pedestrian Bridge is a highlight of the First and Second Avenues neighborhood. Special care should be taken to ensure that development and redevelopment surrounding the Shelby Street Bridge complements, in scale and massing, the bridge so as not to detract from its landmark status.

The proposed Crown SP plan meets the goals and objectives of the updated Community Plan, as outlined below.

**Goal 3 SoBro Mixed Use Subdistrict:** To develop a balanced, mixed-use neighborhood within SoBro Subdistrict 3 that will:

- contribute to the economic vitality of Downtown Nashville by emphasizing residential and entertainment uses;
- include a mixture of uses within each block and within structures;

- create a pedestrian-friendly streetscape by using urban design practices that complement the neighboring cultural and entertainment and open space subdistricts;
- maintain, along both sides of First and Second Avenues, the building height range that exists in the portion of the First and Second Avenues corridor north of Broadway;
- preserve and encourage adaptive reuse of existing historic structures within the subdistrict including Cummins Station, the First Lutheran Church at 109 8<sup>th</sup> Avenue South, Methodist Publishing House and structures at 304 and 306 10<sup>th</sup> Ave. S. as shown on Historic Structures map in this document; and
- encourage environmentally sustainable, energy efficient development.

**Objectives:**

- 3.1 Two faces of the building may rise sheer from the street, except on First and Second Avenues, where no sheer faces should be permitted. In order to achieve a pedestrian-friendly streetscape, buildings with sheer faces are encouraged to design a base, a tower, and a top utilizing various methods of architectural articulation.
- 3.2 On building faces that are not sheer, the building heights should be a minimum of 45 feet at the street, but should not exceed 105 feet at the street. At 105 feet, the building is to step back a minimum of 20 feet. After stepping back 20 feet, height is unlimited.
- 3.3 On the east side of First Avenue, the building heights should be a minimum of 45 feet at the street, but should not exceed 105 feet at the street. At 105 feet, a sky exposure plane of one foot horizontal to one and one half foot vertical should apply to a maximum allowed height of 175 feet.
- 3.4 On the west side of First Avenue and the east side of Second Avenue, the building heights should be a minimum of 45 feet at the street, but should not exceed 105 feet at the street. At 105 feet, a sky exposure plane of one foot horizontal to one and one half foot vertical should apply.
- 3.5 On the west side of Second Avenue, the building heights should be a minimum of 45 feet at the street, but should not exceed 105 feet at the street. At 105 feet, the building is to step back a minimum of 20 feet. After stepping back 20 feet, height is unlimited.
- 3.6 The height should be measured from the median height along the property line of the highest order (“A”, “B”, “C”, or “D”) street on the subject property.
- 3.7 In order to achieve more sustainable development and energy efficiency, all new development should achieve Leadership in Environmental and Energy Design (LEED) certification or, at a minimum, meet Metro’s Downtown green building standard. A floor area ratio (FAR) of up to 8 may be allowed if the proposed structure achieves a level of “Silver” LEED certification or, at a minimum LEED certification. A FAR of up to 10 may be allowed if the proposed structure achieves a level of “Gold” LEED certification or, at a minimum “Silver” LEED certification.
- 3.8 Preserve and encourage adaptive reuse of existing historic and cultural structures within the subdistrict.
- 3.9 New development adjacent to historic structures should complement those structures and not threaten the integrity of the property and its environment.
- 3.10 In order to achieve a pedestrian-friendly, active streetscape, all buildings on Second Avenue, Fourth Avenue, Eighth Avenue, and Demonbreun Street should have active retail, restaurants, or high volume office uses with direct street access doors on the first floor, and transparent windows on the first floor. All buildings on other streets are encouraged to have active retail, restaurant, or high volume office uses with direct street access doors on the first floor, and transparent windows on the first floor.
- 3.11 Parking that is provided within this subdistrict should be located in structures or underground.

- 3.12 In order to achieve a pedestrian-friendly, active streetscape, all parking structures on Second Avenue, Fourth Avenue, Eighth Avenue, and Demonbreun Street should be lined with residential, retail, or office space.
- 3.13 Entrances to parking should not be located on Second Avenue, Fourth Avenue, Eighth Avenue, or Demonbreun Street. Special consideration will be made for properties fronting onto two of the above-mentioned streets.
- 3.14 Entrances to parking should be designed to minimize the impact on the quality of the pedestrian environment.
- 3.15 New construction should provide a sidewalk as described in *Chapter 5. Walkable Subdivisions of the Subdivision Regulations* and should provide streetscape amenities as described in the *Downtown Streetscape Elements Design Guidelines*.
- 3.16 Buildings should be constructed to the property line except that recesses may be permitted for widening sidewalks, outdoor dining, courtyards, and architectural arcades.
- 3.17 If zoning is necessary, rezone to SP or MUI with the above conditions to guide rezoning, serve as conditions to variances and special exceptions, and/or guide the creation of a new zoning district.

**Consistent with Policy?** - The proposed plan is largely consistent with the updated Mixed Use policy, and the goals and objectives. The proposed plan is inconsistent, however, on objective 3.10, which calls for parking structures on “A” streets (in this case Demonbreun and 2nd Avenue South) to be linked with residential, retail or office space.

This objective addresses several of the guiding principles of Downtown including strategically providing mixed use and creating active and attractive streetscapes.

Strategically providing mixed use is a guiding principle for Downtown development. It not only diversifies the economic base of Downtown, guarding against downturns in any one economic sector, but mixed use is also key to making Downtown a vibrant urban residential neighborhood. Metro Nashville has committed to providing for up to 10,000 citizens to move Downtown and providing a mixture of uses, not only residential, but also support services, is necessary to meet this goal. The proposed Crown building offers a very limited mixture of uses. It is primarily a single-use, corporate headquarters-type structure with proposed retail on the first floor. This type of structure is ideal in the Downtown Core (Central Business District), which could be considered more of Downtown’s “Wall Street.” Structures in SoBro, however, need to have more of a mixture of uses to ensure that they are centers of activity 24/7 as is befitting of the vision the community proposed for SoBro.

Lining parking structures is also important to the guiding principle of creating active and attractive streetscapes. Downtown is safer and more welcoming to residents and visitors when streets are active and when dead parking garages, no matter how attractively designed, are lined with active uses, such as residential with balconies, offices that may be lit up at night, etc. Again, a parking structure that is attractively designed, but is dead at night, is fitting for the Downtown Core, which is Nashville’s economic center and is more likely to “close” after work. For the urban neighborhood of SoBro, however, a lifeless parking structure does not add to the feeling of activity, the “eyes on the street” and the safety that that provides. It is not appropriate for the community’s vision for SoBro.

**RECENT REZONINGS** - Yes. An SP rezoning for the Westin Hotel at 2<sup>nd</sup> Avenue and Broadway was approved with conditions by the Planning Commission at the November 14, 2006, meeting. This included a 19-story, 375-room hotel with retail and restaurant uses, and 48 condominiums.

#### **PLAN DETAILS**

**Reason for SP** - The applicant is requesting the SP district because the existing CF zoning limits the Floor

Area Ratio (FAR) to 5.0 and a height of 65 feet at the setback line, while the proposed plan would allow up to an 8.0 FAR and 66 foot tall height at the setback line.

**Redevelopment District** - This property falls within the Rutledge Hill Redevelopment district. The Metro Development and Housing agency Design Review Committee gave conceptual approval to the project.

**PUBLIC WORKS RECOMMENDATION** - Access Study is required.

**Typical Uses in Existing Zoning District: CF**

Land Use (ITE Code)	Acres	FAR	Total Square Feet	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
General Office (710)	1.59	2.578	178,553	2,085	299	279

**Maximum Uses in Existing Zoning District: CF**

Land Use (ITE Code)	Acres	FAR	Total Square Feet	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
General Office (710)	1.59	5	346,302	3,472	507	467

**Typical and Maximum Uses in Proposed Zoning District: SP**

Land Use (ITE Code)	Acres	FAR	Total Square Feet	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
General Office (710)	1.59	n/a	554,000	4,243	625	583

**Typical and Maximum Uses in Proposed Zoning District: SP**

Land Use (ITE Code)	Acres	FAR	Total Square Feet	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
General Retail (814)	1.59	n/a	15,258	748	20	62

**Typical and Maximum Uses in Proposed Zoning District: SP**

Land Use (ITE Code)	Acres	FAR	Total Square Feet	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Sit Down Restaurant(932)	1.59	n/a	4,285	585	53	51

**Change in Traffic Between Maximum Uses in Existing and Proposed Zoning District**

Land Use (ITE Code)	Acres	--		Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
--			+49,629	2,104	191	229

**STORMWATER RECOMMENDATION**

Provide the following:

- FEMA Note / Information
- North Arrow & Bearing Information
- Vicinity Map
- Proposed Site Layout (Scale no less than 1" = 100', Contours no greater than 5')
- Add 78-840 Note:

(Any excavation, fill, or disturbance of the existing ground elevation must be done in accordance with

storm water management ordinance No. 78/840 and approved by The Metropolitan Department of Water Services.)

- Add Preliminary Note:

(This drawing is for illustration purposes to indicate the basic premise of the development. The final lot count and details of the plan shall be governed by the appropriate regulations at the time of final application.)

- Add Access Note:

(Metro Water Services shall be provided sufficient and unencumbered access in order to maintain and repair utilities in this site.)

- Add C/D Note:

(Size driveway culverts per the design criteria set forth by the Metro Stormwater Management Manual (Minimum driveway culvert in Metro ROW is 15" CMP).)

- Existing Topo

- Water Quality Concept

Note: Compensated fill will be required within the floodplain.

#### **CONDITIONS:**

1. Except as otherwise noted herein, the application and attached materials, plans and reports (dated November 30, 2006) shall constitute the plans and regulations as required for the Specific Plan rezoning. Except as otherwise noted herein, the application and supplemental information shall be used by the Planning Department and Department of Codes Administration to determine compliance, both in the review of final site plans and issuance of permits for construction and field inspection. Deviation from these plans will require review by the Planning Commission and approval by the Metropolitan Council.
2. In order to achieve more sustainable design, it is the expressed intent of the Metropolitan Council that this development is required to achieve and maintain Leadership in Environmental and Energy Design (LEED) certification. A LEED accredited professional shall oversee all design and construction. Prior to issuance of a temporary certificate of occupancy for any use of the development, a report shall be provided for the review of the Department of Codes Administration by an approved independent LEED accredited professional. The report shall certify that all construction practices and building materials used in the construction is in compliance with the LEED certified plans and shall report on the likelihood of certification. If certification appears likely, temporary certificates of occupancy (as set forth below) may be issued. Monthly reports shall be provided as to the status of certification and the steps being taken to achieve certification. Once certification is achieved, the initial certificate of LEED compliance, as set forth herein, and a final certificate of occupancy may be issued.
3. To ensure that LEED certification is attained the Department of Codes Administration is authorized to issue a temporary certificate of occupancy once the building is otherwise completed for occupancy and prior to attainment of LEED certification. A temporary certificate of occupancy shall be for a period not to exceed three (3) months (with a maximum of one extension) to allow necessary time to achieve final certification. Fees for the temporary certificate (and a maximum of two, 3-month extensions) shall be \$100 or as may otherwise be set by the Metro Council. Once one extension of the temporary certificate of occupancy is granted, any additional extensions shall be granted only in conjunction with a valid certificate of LEED noncompliance as set forth herein. Failure to maintain a valid certificate of LEED noncompliance shall void any temporary certificate of occupancy.
4. To ensure that LEED certification is maintained, the property owner is required to hold a valid certificate of LEED compliance for a period of 10 years following initial certification. This certificate shall be issued by the Department of Codes Administration following the presentation of information by the property owner or their authorized agent that the building remains a LEED certified building. The information shall be prepared by an approved independent LEED accredited professional. The fee for a certificate of compliance shall be \$100 or as may be otherwise set by the Metro Council. The certificate of LEED compliance shall be valid for 2 years.

If during the required 10 year period, the property fails to maintain LEED certification, the Department of Codes Administration is authorized to issue a short-term certificate of LEED noncompliance. This certificate will allow the building to retain its certificate of occupancy pending reattainment of LEED certification. A certificate of LEED noncompliance shall be for a period not to exceed three (3) months and may be renewed as necessary to achieve certification. The fee for a certificate of LEED noncompliance shall be based on the following formula:

$F = [(26-CE)/26] \times CV \times 0.0075$ , where: F is the fee;  
26 is the minimum number of credits to earn **LEED** certification;  
CE is the number of credits earned as documented by the report; and CV is the Construction Value as set forth on the building permit for the structure.

During the required 10 year period, a valid certificate of LEED compliance or certificate of LEED noncompliance is necessary to maintain a certificate of occupancy.

5. All elevations and materials shall be further developed and approved through the MDHA design review committee and provided with the final SP application.
6. All requirements and conditions of the Traffic Impact Study/Access Study shall be designed and bonded and/or completed prior to issuance of building permits and if bonded, completed prior to issuance of a certificate of occupancy. Prior to the issuance of any permits, confirmation of final approval of this proposal shall be forwarded to the Planning Department by the Traffic Engineering Section of the Metropolitan Department of Public Works for all improvements within public rights of way.
7. All stormwater management requirements and conditions of the Department of Water Services shall be approved prior to the submittal of the final site plan. Prior to the issuance of any permits, confirmation of compliance with the final approval of this proposal shall be forwarded to the Planning Department by the Stormwater Management division of Water Services.
8. The requirements of the Metropolitan Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
9. For any development standards and/or requirements not specifically addressed in the application as approved in this ordinance, the Metro Zoning Ordinance requirements for the MUI- Mixed Use Intensive district shall apply.
10. This approval does not include approval of any signs. All signage shall be reviewed and approved by the Planning Commission with the submittal of any final site development plan. All signage shall follow the requirements of any applicable MDHA design guidelines and the allowable signage of the MUI- Mixed Use Intensive district zoning district (whichever is more restrictive).
11. Minor adjustments to the site plan may be approved by the planning commission or its designee based upon final architectural, engineering or site design and actual site conditions. All adjustments shall be consistent with the principles and further the objectives of the approved plan. Adjustments shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or intensity, add uses not otherwise permitted; eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance; or add vehicular access points not currently present or approved.

Approved with conditions (9-0), *Consent Agenda*

**Resolution No. RS2006-396**



**“BE IT RESOLVED by The Metropolitan Planning Commission that 2006SP-161U-09 is **APPROVED WITH CONDITIONS. (9-0)****

**Conditions of Approval:**

1. Except as otherwise noted herein, the application and attached materials, plans and reports (dated November 30, 2006) shall constitute the plans and regulations as required for the Specific Plan rezoning. Except as otherwise noted herein, the application and supplemental information shall be used by the Planning Department and Department of Codes Administration to determine compliance, both in the review of final site plans and issuance of permits for construction and field inspection. Deviation from these plans will require review by the Planning Commission and approval by the Metropolitan Council.
2. In order to achieve more sustainable design, it is the expressed intent of the Metropolitan Council that this development is required to achieve and maintain Leadership in Environmental and Energy Design (LEED) certification. A LEED accredited professional shall oversee all design and construction. Prior to issuance of a temporary certificate of occupancy for any use of the development, a report shall be provided for the review of the Department of Codes Administration by an approved independent LEED accredited professional. The report shall certify that all construction practices and building materials used in the construction is in compliance with the LEED certified plans and shall report on the likelihood of certification. If certification appears likely, temporary certificates of occupancy (as set forth below) may be issued. Monthly reports shall be provided as to the status of certification and the steps being taken to achieve certification. Once certification is achieved, the initial certificate of LEED compliance, as set forth herein, and a final certificate of occupancy may be issued.
3. To ensure that LEED certification is attained the Department of Codes Administration is authorized to issue a temporary certificate of occupancy once the building is otherwise completed for occupancy and prior to attainment of LEED certification. A temporary certificate of occupancy shall be for a period not to exceed three (3) months (with a maximum of one extension) to allow necessary time to achieve final certification. Fees for the temporary certificate (and a maximum of two, 3-month extensions) shall be \$100 or as may otherwise be set by the Metro Council. Once one extension of the temporary certificate of occupancy is granted, any additional extensions shall be granted only in conjunction with a valid certificate of LEED noncompliance as set forth herein. Failure to maintain a valid certificate of LEED noncompliance shall void any temporary certificate of occupancy.
4. To ensure that LEED certification is maintained, the property owner is required to hold a valid certificate of LEED compliance for a period of 10 years following initial certification. This certificate shall be issued by the Department of Codes Administration following the presentation of information by the property owner or their authorized agent that the building remains a LEED certified building. The information shall be prepared by an approved independent LEED accredited professional. The fee for a certificate of compliance shall be \$100 or as may be otherwise set by the Metro Council. The certificate of LEED compliance shall be valid for 2 years.

If during the required 10 year period, the property fails to maintain LEED certification, the Department of Codes Administration is authorized to issue a short-term certificate of LEED noncompliance. This certificate will allow the building to retain its certificate of occupancy pending reattainment of LEED certification. A certificate of LEED noncompliance shall be for a period not to exceed three (3) months and may be renewed as necessary to achieve certification. The fee for a certificate of LEED noncompliance shall be based on the following formula:

$F = [(26 - CE) / 26] \times CV \times 0.0075$ , where: F is the fee;

26 is the minimum number of credits to earn **LEED** certification;

CE is the number of credits earned as documented by the report; and CV is the Construction Value as set forth on the building permit for the structure.

- During the required 10 year period, a valid certificate of LEED compliance or certificate of LEED noncompliance is necessary to maintain a certificate of occupancy.
5. All elevations and materials shall be further developed and approved through the MDHA design review committee and provided with the final SP application.
  6. All requirements and conditions of the Traffic Impact Study/Access Study shall be designed and bonded and/or completed prior to issuance of building permits and if bonded, completed prior to issuance of a certificate of occupancy. Prior to the issuance of any permits, confirmation of final approval of this proposal shall be forwarded to the Planning Department by the Traffic Engineering Section of the Metropolitan Department of Public Works for all improvements within public rights of way.
  7. All stormwater management requirements and conditions of the Department of Water Services shall be approved prior to the submittal of the final site plan. Prior to the issuance of any permits, confirmation of compliance with the final approval of this proposal shall be forwarded to the Planning Department by the Stormwater Management division of Water Services.
  8. The requirements of the Metropolitan Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
  9. For any development standards and/or requirements not specifically addressed in the application as approved in this ordinance, the Metro Zoning Ordinance requirements for the MUI- Mixed Use Intensive district shall apply.
  10. This approval does not include approval of any signs. All signage shall be reviewed and approved by the Planning Commission with the submittal of any final site development plan. All signage shall follow the requirements of any applicable MDHA design guidelines and the allowable signage of the MUI- Mixed Use Intensive district zoning district (whichever is more restrictive).
  11. Minor adjustments to the site plan may be approved by the planning commission or its designee based upon final architectural, engineering or site design and actual site conditions. All adjustments shall be consistent with the principles and further the objectives of the approved plan. Adjustments shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or intensity, add uses not otherwise permitted; eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance; or add vehicular access points not currently present or approved.

**The proposed SP district is consistent with the proposed Downtown Community Plan's policies and design criteria."**